

done by the judge. I say that this indicates strongly that the commissioner must be answerable directly to the judge, because any activities that were not consistent with the behavior of the judge would be vested upon that judge.

Delegate Dulany already mentioned the fact that there is a great deal of discretion in issuing of warrants of arrest. I would agree with him wholeheartedly.

I submit if a commissioner has a completely different theory with respect to the issuance of these warrants from the judge for whom he works, you would be creating an unconscionable situation in the courts.

I think this is no different from the right of a judge to hire his secretaries, to hire his law clerks or appoint masters. I see no political pressures. This is purely ministerial duties to take pressure off the judge. I think it is a power that must be left with him.

THE CHAIRMAN: Delegate Johnson, you have left four and a quarter minutes.

DELEGATE JOHNSON: Mr. Chairman, I yield two minutes to Delegate Hickman.

THE CHAIRMAN: Delegate Hickman.

DELEGATE HICKMAN: Mr. Chairman, Ladies and Gentlemen of the Committee of the Whole:

I would like to reemphasize that the minority report is not a dissent. We think that the present Constitution needs an improvement.

We think that the majority report goes too far. We have tried to take a moderate view. We want to come out of this Convention with a constitution which is an improvement over the constitution we have at the present time, but we want to come out with a constitution that is going to be accepted by the people of this State.

I submit to you that the people of the State would not understand having the judges appoint these nonjudicial people. Actually, in Committee we decided they need not even be lawyers.

We do not ask that these people be elected, but that the legislature have the power to appoint them. We think this is one area in which we can temper the situation so that people will feel they have some part in the judicial system. We think it will do no harm and that the suggestion we make will improve the judicial branch as much as the suggestion that was made by the majority.

THE CHAIRMAN: Delegate Mudd, you have three and a half minutes.

DELEGATE MUDD: I yield three minutes to Delegate Marvin Smith.

THE CHAIRMAN: Delegate Marvin Smith.

DELEGATE M. SMITH: Mr. Chairman, early in the game I was approached with reference to a plan for appointment of the commissioners by the governor, subject to senate confirmation, it being pointed out that this might make the constitution and the judicial article more palatable to certain of the political fraternity.

I am frank to admit, like the delegate who sits on the other side of the room, I am a part-time politician. After I analyzed this plan, I could not and will not support this amendment. I am concerned about the people, and I am concerned about people insofar as the administration of justice is concerned. I have seen situations with our present part-time magistrates where a poor innocent boy—I wouldn't represent anything else—accused of fighting or some such similar thing, the magistrate says, \$1,000 bond. You bring in his parents who own their home, worth a couple thousand dollars, and the magistrate says, No, this has to be cash bond."

You explain to him that he set a thousand, they own their home, and that should be adequate, and he replies, "In that case, I will set the bond so high he can't get out." You have nothing to do but threaten him with a writ of habeas corpus.

Under the system proposed by this amendment there would not be control, there would not be supervision by the courts. I submit to you, sir, that it is essential that these commissioners be under the control of the courts from the standpoint of training, from the standpoint of supervision, if the rights of the public are to be protected.

THE CHAIRMAN: Delegate Johnson, you have three-quarters of a minute.

DELEGATE JOHNSON: I will not put an imposition upon our next speaker, and speakers, for that matter, and ask that these delegates comment under the uncontrolled time. I will take this opportunity, if I may, to answer the statement made by Delegate Case.

I realize, of course, that Delegate Case was a member of the Constitutional Convention Commission, and I realize he is a